



Economic Affairs Interim Committee

66th Montana Legislature

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December 30, 2019

To: Economic Affairs Interim Committee
From: Jameson Walker, Legislative Attorney
Re: Administrative Rule Report, December 2019

The Economic Affairs Interim Committee (EAIC) is responsible for reviewing administrative rules promulgated by several state agencies for compliance with the Montana Administrative Procedure Act (MAPA).¹ The following notices are filed with the Secretary of State's Office for publication in the Montana Administrative Register (MAR). Notices are available at <http://www.mtrules.org> (search by notice number).

PROPOSAL NOTICES

Department of Agriculture and administratively attached entities

There are no pending rules.

Department of Commerce and administratively attached entities

MAR Notice Number: 8-119-174

Subject: Adoption of rules pertaining to the Montana Economic Development Industry Advancement Act (MEDIA).

Summary: The department proposes to adopt New Rules I through IX to administer the MEDIA:

New Rule #	Title
I	DEFINITIONS
II	APPLICATION FOR STATE CERTIFICATION OF PRODUCTION
III	STATE CERTIFICATION OF PRODUCTION

¹ The Committee reviews rules promulgated by the following entities: Department of Agriculture, Department of Commerce, Department of Labor and Industry, Department of Livestock, State Auditor's Office, Division of Banking & Financial Institutions, Governor's Office of Economic Development, and Department of Revenue, Liquor Control Division. This report does not represent any action or opinion of the Committee and does not preclude additional action that may be taken by the Committee pursuant to its authority under the Montana Administrative Procedure Act, Title 2, chapter 4, MCA.

IV	APPLICATION FOR STATE CERTIFICATION OF PRODUCTION WITH BASE INVESTMENT OF LESS THAN \$350,000 BUT GREATER THAN \$50,000
V	STATE CERTIFICATION OF PRODUCTION WITH BASE INVESTMENT OF PRODUCTION WITH BASE INVESTMENT OF LESS THAN \$350,000 BUT GREATER THAN \$50,000
VI	STATE CERTIFIED PRODUCTIONS ELIGIBLE TO USE THE MONTANA SCREEN CREDIT
VII	REVOCATION OF STATE CERTIFICATION
VIII	APPLICATION FOR STATE CERTIFICATION OF POSTPRODUCTION COMPANY
IX	STATE CERTIFICATION OF POSTPRODUCTION COMPANY

The department states that the proposed rules are necessary to implement procedures to administer the MEDIA. The department states that the fee estimate requirements cannot be determined at this time because the number of applicants and requests for certifications from production companies is currently unknown to the department.

Notes/Hearing: The department held a hearing on December 2, 2019, to consider the notice.

MAR Notice Number: 8-94-176

Subject: Amendment of rules pertaining to the administration of the 2021 and 2023 Biennia Treasure State Endowment Program (TSEP) -- Emergency Grants.

Summary: The department proposes to amend 8.94.3816 by updating date references to the 2021 and 2023 biennium guidelines.

Notes/Hearing: The department does not contemplate the need to conduct a public hearing.

MAR Notice Number: 8-94-177

Subject: Repeal of rules pertaining to the TSEP.

Summary: The department proposes to repeal 8.94.3802, 8.94.3804, 8.94.3805, 8.94.3807, 8.94.3809, and 8.94.3812. The department states that all projects initiated under these rules have been closed out. The rules pertain to the 1994, 1998, 1999, 2001, 2003, and 2005 TSEP grants.

Notes/Hearing: The department does not contemplate the need to conduct a public hearing.

Department of Labor and Industry and administratively attached entities

MAR Notice Number: 24-174-73

Subject: Adoption of rules pertaining to positive identification for controlled substance prescriptions.

Summary: The department proposes to adopt New Rule I. The rule will allow valid government-issued photo identification for controlled prescriptions listed in 37-7-410. The rule provides that a valid government-issued photo identification includes but is not limited to passport, military, or

state-issued identification. The department states that the proposed rules are necessary to administer House Bill 86 from 2019.

Notes/Hearing: The department held a hearing on December 6, 2019, to consider the notice.

MAR Notice Number: 24-181-7

Subject: Amendment and repeal of rules pertaining to private alternative adolescent residential or outdoor programs.

Summary: The department proposes to amend 24.101.413 to remove the reference to private alternative adolescent residential or outdoor programs. The department proposes to repeal 24.181.301, 24.181.402, 24.181.403, 24.181.404, 24.181.501, 24.181.505, 24.181.601, 24.181.603, 24.181.605, 24.181.607, 24.181.608, 24.181.609, 24.181.610, 24.181.611, 24.181.612, 24.181.613, 24.181.615, 24.181.616, 24.181.620, 24.181.621, 24.181.622, 24.181.623, 24.181.624, 24.181.625, 24.181.626, 24.181.627, 24.181.628, 24.181.701, 24.181.704, 24.181.706, 24.181.708, 24.181.710, 24.181.711, 24.181.716, 24.181.717, 24.181.718, 24.181.719, 24.181.722, 24.181.723, 24.181.724, 24.181.728, 24.181.730, 24.181.802, 24.181.803, 24.181.807, 24.181.810, and 24.181.2101. The department states that it is reasonably necessary to amend and repeal these rules to administer Senate Bill 267 from 2019. This bill terminated the Board of Private Alternative Adolescent Residential or Outdoor Programs and transferred licensing and regulatory duties to the Department of Public Health and Human Services.

Notes/Hearing: The department does not contemplate the need for a public hearing.

MAR Notice Number: 24-29-352

Subject: Amendment and repeal of rules pertaining to the description of a prosthesis for the purpose of reopening medical benefits in workers' compensation claims.

Summary: The department proposes to amend 24.29.1407 by providing a definition of "prosthesis." The department states that the rule amendment is necessary in light of recent petitions to reopen medical benefits pursuant to 39-71-717 and *Mellinger v. Montana State Fund*, 2018 MTWCC 13. The department states that the proposed definition of prosthesis is limited in its application to requests for reopening of medical benefits pursuant to 39-71-717 where the prosthesis is required because of the workplace injury or occupational disease.

Notes/Hearing: The department will hold a public hearing on January 24, 2020, to consider the notice.

Department of Revenue, Liquor Control Division

MAR Notice Number: 42-1014

Subject: Amendment and repeal of rules pertaining to resort areas, resort determinations, and resort licenses.

Summary: The department proposes to amend 42.12.301, 42.12.302, and 42.12.307. The department states that the amendments are necessary to provide operating requirements for resort

licenses where the delivery of alcoholic beverages is permitted to accommodation units and to streamline requirements. The department states that the rule notice generally implements SB 358 from 2019. The department proposes to repeal 42.12.303 and 42.12.306 pertaining to resort areas, resort determinations, and resort licenses. The department states that the repeal of the statutes are necessary in light of amendments to the rules.

Notes/Hearing: The department will hold a public hearing on January 22, 2020, to consider the notice.

MAR Notice Number: 42-1016

Subject: Adoption of a rule pertaining to limited all-beverages licenses for continuing care retirement communities.

Summary: The department proposes to adopt New Rule I. The rule will allow the department to determine the suitability of the premises when a continuing care retirement community applies to obtain a limited all-beverages license. The department states that the rule adoption is necessary to administer House Bill 613 from 2019.

Notes/Hearing: The department will hold a public hearing on January 22, 2020, to consider the notice.

Department of Livestock and administratively attached entities

MAR Notice Number: 32-19-301

Subject: Amendment of rules pertaining to model procedural rules.

Summary: The department proposes to amend 32.2.101. The department is amending the rules to ensure compliance with the most current Attorney General's model rules by removing outdated language.

Notes/Hearing: The department does not contemplate the need to hold a hearing.

MAR Notice Number: 32-19-303

Subject: Amendment, adoption, and repeal of rules pertaining to food safety.

Summary: The department proposes to amend 32.6.701 (definitions), 32.6.702 (applications to be in writing; inspection of plans and facilities prior to issuance of license), and 32.6.712 (food safety and inspection service). The department states that the amendments are necessary to clarify definitions used, specifically the definition of "meat depot." The department proposes to adopt NEW RULE I (meat depot requirements), and New Rule II (restroom facilities). The department states that the new rules are necessary in light of repealing rules. The department proposes to repeal 32.6.703 through 32.6.711 and 32.6.801 through 32.6.815. The department states that the repeal of these rules will remove unnecessarily burdensome requirements, avoid duplication and conflict, and to simplify regulatory requirements.

Notes/Hearing: The department does not contemplate the need to hold a hearing.

MAR Notice Number: 32-19-304

Subject: Amendment of rules pertaining to importation requirements.

Summary: The department proposes to amend 32.4.502 (importation of restricted or prohibited alternative livestock) and 32.4.1309 (import requirements for cervids). The department states that the rule amendments are necessary because of the risk of Chronic Wasting disease (CWD) to Montana's captive cervid industry and the rules would prohibit the importation of cervids to Montana for reasons other than slaughter until an acceptable antemortem test for CWD becomes available.

Notes/Hearing: The department does not contemplate the need to hold a hearing.

MAR Notice Number: 32-19-305

Subject: Amendment of a rule pertaining to milk control assessments.

Summary: The department proposes to amend 32.24.450 by reducing fees for milk control assessments. The department estimates that the proposed assessment rates would decrease milk control assessment revenue by approximately \$22,000.

Notes/Hearing: The department does not contemplate the need to hold a hearing.

State Auditor's Office

There are no pending rules.

Division of Banking & Financial Institutions

There are no pending rules.

Governor's Office of Economic Development

There are no pending rules.